

The Extremely Hazardous Materials Transportation Security Act of 2005

Purpose: The purpose of the bill is to direct the Secretary of Homeland Security to issue regulations upgrading the security associated with transporting extremely hazardous materials (EHM), which are defined as materials that are a) toxic by inhalation, b) extremely flammable, c) highly explosive or d) any other extremely hazardous material designated by the Secretary.

Regulations: DHS is instructed to conduct a public rulemaking (though it would be expected that some information associated with it would be classified) and consult with the hazardous materials shipping industry, labor unions, other Federal, State and local entities, and other interested persons (i.e. community groups, independent security experts, etc) and come up with regulations in 6 months after enactment. DHS is encouraged to ensure that the regulations are consistent with and not duplicative of other U.S. regulations and international agreements concerning hazardous materials.

Security Upgrades Required: new security measures would be required. 1) physical security measures such as secondary containment, extra security guards and surveillance technologies, 2) pre-notification of EHM shipments for law enforcement authorities, 3) the creation of terrorism response plans for an attack on EHM shipments, 4) the use of currently available technologies to ensure effective and immediate communication between shippers of EHM, law enforcement authorities and first responders and 5) re-routing of shipments of EHM going through areas of concern (areas of concern are defined by the Secretary) only if there is a safer route available, and only if the shipment's origination or destination is not located within the area of concern, 6) training for employees who work with extremely hazardous materials shipments and those who would be expected to respond to an attack on an EHM shipment. Whistleblower protections for those who are retaliated against for disclosing violations of security rules/regulations are also included.

Threat Assessment Report: DHS must submit a report to Congress concerning the vulnerability of the infrastructure associated with the transportation of EHM and the roles and responsibilities of all Federal and State agencies charged with regulating such shipments.

Enforcement: There are enforcement authorities, including judicial penalties of up to \$100,000 per non-compliant shipment, and administrative penalties of up to \$1,000,000 imposable by DHS.